



U.S. Department of Justice

*United States Attorney
Southern District of New York*

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

November 13, 2016

Via ECF & Email

Honorable Paul A. Crotty
United States District Judge
Southern District of New York
Email: CrottyNYSDChambers@nysd.uscourts.gov

Re: United States v. Campo Flores, et ano., S5 15 Cr. 765 (PAC)

Dear Judge Crotty:

The Government respectfully submits this letter in response to the defendants' November 13, 2016 letter regarding cross-examination of Jose Santos Pena.

First, Rule 609 does not provide a basis to admit the confidential source agreements. Rule 609 does allow for the admissibility of evidence of a witness's prior convictions. In introducing extrinsic evidence of the prior conviction, however, the impeaching party, "is generally limited to establishing the bare facts of the conviction: usually the name of the offense, the date of the conviction, and the sentence." 4-609 Weinstein's Federal Evidence § 609.20. There is no basis for admitting "core documents" which may underlie the offense conduct.

Also misplaced are the defense's arguments that the confidential source agreements, some of which were signed years ago, somehow show the witness's bias towards the Government or cast light on the witness's motives in testifying. Moreover, the Government has not "continue[d] to allow" the sources "to operate with impunity." Santos Pena was arrested in August 2016, is currently facing a significant prison sentence, and no decision has been made on whether the Government will be making a 5K motion in his case.

Respectfully submitted,

PREET BHARARA
United States Attorney

By: _____
Emil J. Bove III / Brendan F. Quigley
Assistant United States Attorneys
(212) 637-2444 / 2190